

UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF CALIFORNIA

ANDREW MENDOZA,

Plaintiff,

v.

VALLEY TRANSPORTATION, INC., et al.,

Defendants.

Case No. 1: 21-cv-01786-DAD-SAB

ORDER REQUIRING DEFENDANTS TO
FILE OPPOSITION TO PLAINTIFF'S *EX*
PARTE APPLICATION

(ECF No. 13)

SEVEN DAY DEADLINE

This action was removed to this Court on December 17, 2021. (ECF No. 1.) On December 27, 2021, Defendants filed a motion to dismiss. (ECF No. 7.) On January 11, 2022, Plaintiff filed a first amended complaint, and the motion to dismiss was denied as moot. (ECF Nos. 10, 11.) On January 20, 2022, Defendants filed an answer to the first amended complaint. (ECF No. 12.)

Currently before the Court is Plaintiff's *ex parte* application for an order dismissing this action pursuant to Federal Rule of Civil Procedure 41(a)(2). (ECF No. 13.) Plaintiff seeks dismissal without prejudice, as well as an order denying any recovery by Defendants of costs or attorneys' fees. (*Id.*) Plaintiff indicates that Defendants have refused to stipulate to voluntary dismissal, including a proposed stipulation that would have maintained Defendants' ability to seek costs and fees.

The Court shall order Defendants to submit an opposition, or a statement of non-opposition, within seven (7) days. If Defendant requires additional time or would prefer this

1 matter be set for hearing, Defendant may indicate in the filing. Alternatively, the parties may
2 submit a stipulation.

3 Accordingly, IT IS HEREBY ORDERED that:

- 4 1. Within seven (7) days of entry of this order, Defendants shall file an opposition
5 with any request for a hearing, or a statement of non-opposition to the Plaintiff's
6 *ex parte* application; and
7 2. If Defendants file an opposition, Plaintiff may file a reply within two (2) days of
8 service of the opposition.

9
10 IT IS SO ORDERED.

11 Dated: **February 8, 2022**


UNITED STATES MAGISTRATE JUDGE